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MINUTES

The Town of Manteo Board of Commissioners held their Recessed June 16, 2021 meeting at 5:00 p.m. at 407 Budleigh Street, Manteo, NC and via teleconference.

The following members were present:

- Mayor Bobby Owens
- Mayor Pro-Tem Betty Selby
- Commissioner Darrell Collins
- Commissioner Christine Walker
- Commissioner Jason Borland
- Commissioner Richie Burke

The following members were absent: Commissioner Eddie Mann

Also present at the meeting were:

- Town Manager James Ayers
- Town Attorney Ben Gallop
- IT Director Carl Woody
- Town Planner Melissa Dickerson
- Town Clerk Jamie Whitley

Mayor Bobby Owens called the meeting to order at 5:00 p.m.

Town Manager Ayers verified that there was a quorum by acknowledging for the record that: Mayor Owens, Commissioners Burke, Walker, Borland and Collins were present. Mayor Pro-Tem Betty Selby entered the meeting at 5:02 p.m. Commissioner Mann was absent.

SUBJECT: Adoption of Agenda as presented or amended

MOTION: A motion was made by Commissioner Borland and seconded by Commissioner Walker to approve the agenda and was approved by the following vote: Ayes: Commissioners Burke, Borland, Walker, and Collins. Nays: None. Absent: Mayor Pro-Tem Betty Selby and Commissioner Mann. **Motion carried.**

SUBJECT: Adoption of the items on the Consent Agenda as presented or amended

MOTION: A motion was made by Commissioner Collins and seconded by Commissioner Burke to approve the Consent Agenda with the following items: Budget Amendment #2 for Fiscal Year 2020-2021 Budget and NC811 Tailgate Wrap Grant and was approved by the following vote: Ayes: Commissioners Burke, Borland, Walker, and Collins. Nays: None. Absent: Mayor Pro-Tem Betty Selby and Commissioner Mann. **Motion carried.**

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PRESENTATIONS & REPORTS

SUBJECT: Department Head Report

The Department Head written reports were given to the Board and are available on our website at manteonc.gov for the general public to review. Next month, the department head reports will be given in person.

SUBJECT: Presentation – Briefing on Planning & Zoning – Melissa Dickerson

The Board had requested at their last meeting to have a learning session on planning and zoning.

Zoning Ordinance

The zoning ordinance is the direct outgrowth of an intensive and comprehensive long-range planning process that began in 1976 with the adoption of the town's first zoning ordinance. The current zoning ordinance was adopted on September 14, 2005.

Comprehensive Development Code

In 2005, a new planning initiative resulted in adoption of the Comprehensive Development Code, comprised of five documents:

- The 2005 Manteo Plan Update
- The 2005 Design Guidelines: The Manteo Way of Building
- The CAMA Land Use Plan
- The proposed Historic District Ordinance
- The 2005 Manteo Zoning Ordinance

These plans were developed with extensive citizen input solicited through surveys, charrettes, workshops, and public hearings, as well as the involvement of representatives from various community organizations and other governmental jurisdictions serving on task forces and steering committees.

The Comprehensive Development Code provides a guide for decision-making based upon priorities identified by the community and adopted by the Manteo Board of Commissioners.

Zoning Districts and Map

The Town has 7 zoning districts. Three of the districts are strictly residential districts and 4 of the districts are business districts. It is important to note that residential uses are allowed in the business districts. The (proposed) zoning map shows the districts and where they are located around town.

B-1 Village Business District

The B-1 Village Business District is located downtown. It spans from Fernando Street to Ananias Dare and includes Festival Park.

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There are two distinct regulations for dimensional requirements in the B-1 District.

- The first is Commercial use and mixed use residential above commercial. Those requirements are show here.
- The second is single family residences and those requirements are shown here.

Uses in the B-1 Village Business District are approved by one of 3 processes:

- Staff approved: Single-family detached residences and duplexes in existing residences.
- Planning Board approved: Home occupations, temporary structures used in connection with a permanent building or for some non-recurring purpose and parking lots.
- Board of Commissioners approved: Conditional uses. There are 28 conditional uses that can be permitted in the B-1 Village Business District. That list of uses can be found in section 7-5 of the zoning ordinance.

Affordable Housing

The Town of Manteo has worked on affordable housing for decades.

In 1982 the Town of Manteo Board of Commissioners voted in favor of a property exchange to sell Town owned property to Mr. John Wellons for low income, elderly and handicapped housing if they obtained 202 funding from the Department of Housing and Urban Development. Today, we have Harbourtowne and Bay Tree because of the Town conducted this land exchange in 1982.

In 2004, The Town passed its Affordable Housing Ordinance in the Code of Ordinances and later passed the inclusionary housing ordinance in 2005.

Those ordinances offer density bonuses and state that "shall be provided equal to one market rate unit or lot for each affordable housing unit or lot. Under no circumstances may a single-family lot contain less than 6,000 square feet unless approved by both the planning board and the town Board of Commissioners."

The inclusionary/affordable housing ordinance does not include rentals.

20-Year Plan

The 20-year plan working group had a subcommittee that reviewed housing.

The subcommittee noted the following:

- The previous community survey from 2005-2007 results had strong advocacy for a lower density.
- Housing above commercial, which is a big incentive in the ordinance by way of additional lot coverage.
- That the 2005 Plan update recognized the lack of land available to be able to developed.
- The issue of short-term rentals and how they were impacting housing stock.

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Essential Housing

On October 7, 2020 Town Manager Ayers presented to you all policy options for essential housing.

Comprehensive Plan and Chapter 160D

A comprehensive plan is required by the 160D legislation, much like the zoning ordinance update you all are considering this evening.

The following is included in the text of the new Chapter 160D and states comprehensive plans "may address" those things listed. Those topics are typical for a comprehensive plan and include:

- Community Vision
- Pattern of Desired Growth
- Economic Development
- Services
- Housing
- Open Space
- Protection of natural resources
- Etc.

The Town's Planning Department Budget for 2021-2022 includes funding for a comprehensive plan and we will begin soliciting assistance for that work in the new fiscal year.

PUBLIC HEARING

SUBJECT: Public Hearing and Consideration of Zoning Map Update

MOTION: A motion was made by Commissioner Walker and seconded by Commissioner Borland to open the Public Hearing on the Zoning Map Update and was approved by the following vote: Ayes: Mayor Pro-Tem Selby, Commissioners Burke, Borland, Walker, and Collins. Nays: None. Absent: Commissioner Mann. **Motion carried.**

MOTION: A motion was made by Commissioner Burke and seconded by Commissioner Walker to close the Public Hearing on the Zoning Map Update and was approved by the following vote: Ayes: Mayor Pro-Tem Selby, Commissioners Burke, Borland, Walker, and Collins. Nays: None. Absent: Commissioner Mann. **Motion carried.**

MOTION: A motion was made by Commissioner Borland and seconded by Commissioner Walker to approve the updated Zoning Map and was approved by the following vote: Ayes: Mayor Pro-Tem Selby, Commissioners Burke, Borland, Walker, and Collins. Nays: None. Absent: Commissioner Mann. **Motion carried.**

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SUBJECT: Public Hearing and Consideration of Chapter 160D

MOTION: A motion was made by Commissioner Walker and seconded by Commissioner Collins to open the Public Hearing on the Chapter 160D Update and was approved by the following vote: Ayes: Mayor Pro-Tem Selby, Commissioners Burke, Borland, Walker, and Collins. Nays: None. Absent: Commissioner Mann. **Motion carried.**

MOTION: A motion was made by Commissioner Walker and seconded by Commissioner Borland to close the Public Hearing on the Chapter 160D Update and was approved by the following vote: Ayes: Mayor Pro-Tem Selby, Commissioners Burke, Borland, Walker, and Collins. Nays: None. Absent: Commissioner Mann. **Motion carried.**

MOTION: A motion was made by Commissioner Borland and seconded by Commissioner Burke to approve the ordinance revisions for Chapter 160D update and was approved by the following vote: Ayes: Mayor Pro-Tem Selby, Commissioners Burke, Borland, Walker, and Collins. Nays: None. Absent: Commissioner Mann. **Motion carried.**

PUBLIC COMMENTS

Members of the public are invited to address the Board of Commissioners on any topic. Public Comment is not intended to require the Board to answer any impromptu questions or to take any action on items brought up during the public comment period. Speakers will address all the comments to the Board as a whole and not one individual Commissioner. Discussions between speakers and members of the audience will not be allowed. Time limits are 3 minutes per person or 5 minutes per group. Please identify yourself and your location so that your statements can be recorded.

Michael Smith, East Lake, NC: He just came to the meeting to learn.

NEW BUSINESS

There is no new business.

MAYOR'S/COMMISSIONERS COMMENTS

Commissioner Walker: She announced that there will be a Cemetery Board Meeting tomorrow at 9:00 a.m.

Commissioner Collins: He invited everyone to the Juneteenth Celebration at the Pea Island Cookhouse on Saturday, June 19th at 5:00 p.m. Tshombe Selby will be there to entertain the audience.

Mayor Pro-Selby: There will also be an event for the kids at 1:00 p.m. on Saturday, June 19th. She thanked the Town of Manteo for its help with the Homegrown Art and Fashion Show. She stated that the rain didn't hold up much. She congratulated the Town Clerk on her NCCMC designation and the Town Manager on his ICMA-CM designation. She thanked the Mayor for coming to the Homegrown event.

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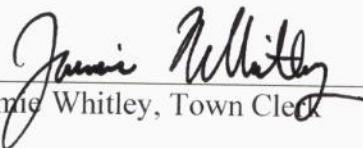
Mayor Owens: He stated that he was planning to go to the Juneteenth Celebration. He loves to hear Tshombe sing. Mayor Owens stated that the Homegrown Art and Fashion Show should be an annual event.

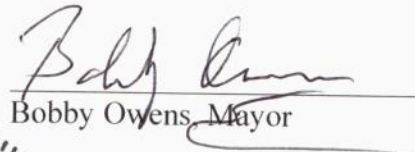
Commissioner Borland: He stated that the realtor association asked to keep the zoom going. There are a lot of overlapping meetings. He stated that he doesn't know the impact or restrictions for doing a live zoom or doing YouTube and still being able to record. He said this is something to think about.

There being no further business to come before the Board or other persons to be heard a motion was made by Commissioner Collins and seconded by Commissioner Borland and the meeting was adjourned at 5:23 p.m. and was approved by the following vote: Ayes: Mayor Pro-Tem Selby, Commissioners Burke, Borland, Walker, and Collins. Nays: None. Absent: Commissioner Mann. **Motion carried.**

This the 16th day of June 2021.

ATTEST:


Jamie Whitley, Town Clerk


Bobby Owens, Mayor



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Town of Manteo
Budget Amendment No. 2
Fiscal Year 2020-2021

BE IT ORDAINED by the Governing Board of the Town of Manteo, North Carolina, that the following amendment be made to the annual budget ordinance for the fiscal year beginning July 1, 2020 and ending June 30, 2021.

GENERAL FUND

The following revenues are decreased in the General Fund:

10-3991-9910 Fund Balance Appropriated General Fund	\$120,376
---	-----------

The following revenues are increased in the General Fund:

10-3834-8865 CAMA Grant Boardwalk	\$95,376
10-3839-8900 Miscellaneous	\$25,000

This portion of the budget amendment is necessary to record Grant Funds from the completion of the CAMA Boardwalk Project from Fiscal Year 2018-2019 and Miscellaneous Revenues received in Fiscal Year 2020-2021. In order to record the revenue received we are reducing the budgeted Fund Balance Appropriated in the Fiscal Year 2020-2021 Budget.

WATER & SEWER FUND

The following revenues are decreased in the Water and Sewer Fund:

60-3991-9910 Fund Balance Appropriated W & S Fund	\$215,000
---	-----------

The following revenues are increased in the Water and Sewer Fund:


60-3839-5100 ARP Federal Funds	\$215,000
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This portion of the budget amendment is necessary to record American Rescue Plan funds that are scheduled to be received prior to June 30, 2021. This amendment will record the revenue we expect to receive.

This the 16th day of June, 2021.


Bobby Owens, Mayor

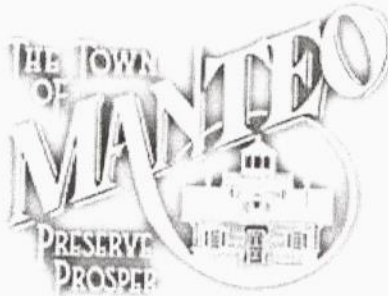
Attest:


Jamie Whitley, Town Clerk



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2
3
4 **AN ORDINANCE AMENDING THE ZONING ORDINANCE**
5 **AND TOWN CODE OF THE TOWN OF MANTEO, NORTH CAROLINA TO**
6 **CONFORM TO G.S. CHAPTER 160D**

7
8 **ZTA-21-02**

9 **ARTICLE I. Purpose(s) and Authority.**

10
11 **WHEREAS**, pursuant to prior versions of N.C.G.S. § 160A-381, the Town of Manteo
12 (the "Town") was authorized to enact and amend ordinances regulating the zoning and
13 development of land within its jurisdiction and specifically the location and use of buildings,
14 structures and land. Pursuant to this authority and the additional authority granted by prior
15 versions of N.C.G.S. Chap. 160A, Art. 19, the Town has adopted a comprehensive zoning
16 ordinance (the "Town's Zoning Ordinance") and has also codified other ordinance provisions
17 Town in the Town's Code of Ordinances (the "Town Code"); and

18
19 **WHEREAS**, pursuant to N.C.G.S. § 160A-174, the Town may enact and amend
20 ordinances which define, prohibit, regulate, or abate acts, omissions, or conditions, detrimental to
21 the health, safety, or welfare of its citizens and the peace and dignity of the city, and may define
22 and abate nuisances within its jurisdiction; and

23
24 **WHEREAS**, the North Carolina General Assembly adopted 2019 N.C. Sess. Law 111 to
25 clarify and change the land-use regulatory laws of the State, including the recodification of many
26 existing land-use regulatory laws in the a newly created N.C.G.S. Chap. 160D pursuant to 2019
27 N.C. Sess. Law 111, Part II; and

28
29 **WHEREAS**, pursuant to 2020 N.C. Sess. Law 25, the town must amend its land-use and
30 development ordinances to conform to N.C.G.S. Chap. 160D on or before July 1, 2021 and
31 N.C.G.S. Chap. 160D applies to the Town's land-use and development regulation decisions made
32 on or after the earlier of (1) the effective date of the Town's amendments to local development
33 regulations to conform to the provisions of N.C.G.S. Chap. 160D; or (2) July 1, 2021; and

34
35 **WHEREAS**, the Town desires to amend its land-use and development ordinances to
36 conform to N.C.G.S. Chap. 160D as provided in this ordinance amendment; and

37
38 **WHEREAS**, the Town further finds that in accordance with the findings above it is in
39 the interest of and not contrary to the public's health, safety, morals and general welfare for the
40 Town to amend the Town's Zoning Ordinance and Town Code of Ordinances as stated below.
41

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1 **ARTICLE II. Construction.**

2
3 For purposes of this ordinance amendment, underlined words (underline) shall be considered as
4 additions to existing Town Code language and strikethrough words (~~strikethrough~~) shall be
5 considered deletions to existing language. Any portions of the adopted Town Code which are not
6 repeated herein, but are instead replaced by an ellipses ("...") shall remain as they currently exist
7 within the Town Code.

8
9 **ARTICLE III. Amendment of Zoning Ordinance**

10
11 NOW, THEREFORE, BE IT ORDAINED by the Town Board of Commissioners of the
12 Town of Manteo, North Carolina, that the Town's Zoning Ordinance be amended as follows:

13
14 **PART 1.** That **Sec. 1-2. Authority.** of the Zoning Ordinance of the Town of Manteo, North
15 Carolina, is hereby amended as follows:

16
17 (a) This ordinance is adopted pursuant to the authority contained in Chapter 160D, prior Article
18 19, Chapter 160A; Article 4, Chapter 113A; and Article 21, Chapter 143 of the North Carolina
19 General Statutes. Under those provisions, the Board of Commissioners of Manteo hereby
20 designates the Manteo Planning and Zoning Board as the planning agency to prepare, amend,
21 supplement, or change a zoning plan showing proposed district boundaries, and to recommend
22 procedures by which the zoning regulations and restrictions and the boundaries of the zoning
23 districts shall be determined, established, and enforced, for final adoption by the Board of
24 Commissioners. In doing so, the character of each district and its peculiar suitability for particular
25 uses should be considered, with a view to conserving the value of buildings and encouraging the
26 most appropriate use of land throughout the town.

27
28 (b) ...

29
30 **PART 2.** That **Sec. 1-5. Intent.** of the Zoning Ordinance of the Town of Manteo, North
31 Carolina, is hereby amended as follows:

32
33 ...
34 (c) The intent of the zoning ordinance, in regulating the permitting process as specified in
35 Article III and elsewhere throughout this document, is to:

36 (1) Provide for an orderly, timely, and fair review of permits for building, zoning,
37 subdivision, special conditional use, occupancy, access, stormwater, sign, and other
38 such permits required by the town;

39 ...

40 (3) When amending or rescinding a previously issued special conditional use permit,
41 provide for the same public involvement and review as when the permit was first
42 issued, to include planning board approval, a public hearing before the Board of
43 Commissioners, and a five-sixths majority of that board, to ensure that those citizens
44 affected by the change have the opportunity for input.

45 ...
46
47 **PART 3.** That **Sec. 1-6. Jurisdiction.** of the Zoning Ordinance of the Town of Manteo, North
48 Carolina, is hereby amended as follows:

136

1 (a) This ordinance shall be effective throughout the town's planning jurisdiction. Such planning
2 jurisdiction may be modified from time to time in accordance with Article 2, Chapter 160D of the
3 North Carolina General Statutes G.S. 160A-360.
4 ...
5

6 **PART 4.** That **Sec. 1-12. Fees.** of the Zoning Ordinance of the Town of Manteo, North
7 Carolina, is hereby amended as follows:
8

9 (a) Reasonable fees sufficient to cover the costs of administration, inspection, publication of
10 notice and similar matters may be charged to applicants for building permits, zoning permits, sign
11 permits, special conditional use permits, subdivision plat approval, zoning amendments,
12 variances, appeals, other administrative relief, and site plan review. The amount of the fees
13 charged shall be as set forth in the town's budget or as established by the town commissioners
14 filed in the office of the town clerk.
15 ...
16

17 **PART 5.** That the Zoning Ordinance, Town of Manteo, North Carolina, is hereby amended by
18 adding a section, to be numbered 1-19, which section reads as follows:
19

20 Sec. 1-19. – Conflicts with State law authority and procedures
21

22 (a) Applicability of State Law: Where any portion of this ordinance or the Town Code of the
23 Town of Manteo conflicts with, contradicts or is otherwise inconsistent with the
24 authority, standards or procedures provided by the North Carolina General Statutes, in
25 particular, N.C.G.S. Chap. 160D, as applicable and amended from time to time, such
26 regulations shall be applied only in a manner consistent with the authority, standards and
27 procedures provided by the General Statutes. Town ordinance provisions which
28 supplement and provide greater due process and other protections than the statutory
29 minimum requirements are not preempted by this subparagraph. The terminology,
30 definitions, and procedures of N.C.G.S. Chap. 160D shall apply as if they have been
31 incorporated within this ordinance and the Town Code of the Town of Manteo.
32

33 (b) Remedies: Any person or entity aggrieved by the application of town development
34 regulations may, within the time period for an appeal from said application of
35 regulations, request an administrative determination of whether the application of town
36 regulations conflicts with, contradicts or is otherwise inconsistent with the authority,
37 standards or procedures provided by the North Carolina General Statutes. Upon such
38 request, town staff shall investigate the application of the town regulations, may consult
39 with the town attorney as needed and shall issue a written determination within a
40 reasonable time. The receipt by the town of a request for such a determination shall cause
41 the application of town development regulations not to be a final appealable
42 administrative decision until the town staff issues the requested determination. If town
43 staff concludes that the application of the town's regulations exceeded the town's
44 authority or did not follow statutory standards or procedures, town staff or the
45 appropriate decision making body shall modify the application of the town's regulations
46 to apply the statutory standards and procedures in the manner required by subparagraph
47 (a) of this section. Following such action, an aggrieved party may appeal the town staff's
48 determination and/or the final resulting decision of town staff or the decision making
49 body in the same manner as other appeals of decisions from the town staff or the decision
50 making body.
51

1 **PART 6.** That the Zoning Ordinance, Town of Manteo, North Carolina, is hereby amended
2 by adding a section, to be numbered 1-20, which section reads as follows:
3

4 Sec. 1-20. – Conflicts of Interest

- 5
- 6 (a) Board of Commissioners.-- A commissioner shall not vote on any legislative decision
7 regarding a development regulation where the outcome of the matter being considered is
8 reasonably likely to have a direct, substantial, and readily identifiable financial impact on
9 the member. A commissioner shall not vote on any zoning amendment if the landowner
10 of the property subject to a rezoning petition or the applicant for a text amendment is a
11 person with whom the commissioner has a close familial, business, or other associational
12 relationship.
- 13
- 14 (b) Appointed Boards.-- Members of appointed boards shall not vote on any advisory or
15 legislative decision regarding a development regulation where the outcome of the matter
16 being considered is reasonably likely to have a direct, substantial, and readily identifiable
17 financial impact on the member. An appointed board member shall not vote on any
18 zoning amendment if the landowner of the property subject to a rezoning petition or the
19 applicant for a text amendment is a person with whom the member has a close familial,
20 business, or other associational relationship.
- 21
- 22 (c) Administrative Staff.-- No staff member shall make a final decision on an administrative
23 decision if the outcome of that decision would have a direct, substantial, and readily
24 identifiable financial impact on the staff member or if the applicant or other person
25 subject to that decision is a person with whom the staff member has a close familial,
26 business, or other associational relationship. If a staff member has a conflict of interest
27 under this section, the decision shall be assigned to the supervisor of the staff person or
28 such other staff person as may be designated by the development regulation or other
29 ordinance. No staff member shall be financially interested or employed by a business that
30 is financially interested in a development subject to regulation unless the staff member is
31 the owner of the land or building involved. No staff member or other individual or an
32 employee of a company contracting with the town to provide staff support shall engage
33 in any work that is inconsistent with his or her duties or with the interest of the town, as
34 determined by the town manager and Board of Commissioners.
- 35
- 36 (d) Quasi-Judicial Decisions.--A member of any board exercising quasi-judicial functions
37 shall not participate in or vote on any quasi-judicial matter in a manner that would
38 violate affected persons' constitutional rights to an impartial decision maker.
39 Impermissible violations of due process include, but are not limited to, a member having
40 a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed
41 ex parte communications, a close familial, business, or other associational relationship
42 with an affected person, or a financial interest in the outcome of the matter.
- 43
- 44 (e) Resolution of Objection.-- If an objection is raised to a commissioner or board member's
45 participation at or prior to the hearing or vote on a particular matter and that
46 commissioner or member does not recuse himself or herself, the remaining members of
47 the board shall by majority vote rule on the objection.
- 48
- 49 (f) Familial Relationship.-- For purposes of this section, a "close familial relationship"
50 means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term
51 includes the step, half, and in-law relationships.

PART 7. That **Sec. 2-1. Definitions of basic terms.** of the Zoning Ordinance of the Town of Manteo, North Carolina, is hereby amended as follows:

Building. Any structure used or intended for supporting or sheltering any use or occupancy. ~~enclosed and isolated by exterior walls constructed or used for residence, business, industry, or public purposes.~~

Conditional use permit. ~~A special use permit as defined by G.S. 160D-102. A permit issued by the town commissioners that authorizes the recipient to make use of property in accordance with the requirements of this ordinance as well as any additional requirements imposed by the town commissioners.~~

Developer. A person who is responsible for any undertaking that requires a zoning permit or a special conditional ~~conditional~~ use permit.

Dwelling. A building that contains one or two dwelling units used, intended or designed to be used, rented, leased, let or hired out to be occupied for living purposes, NCSBC OR Any building, structure, manufactured home, or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith. For the purposes of Article 12 of this Chapter, the term does not include any manufactured home, mobile home, or recreational vehicle, if used solely for a seasonal vacation purpose. NCGS 160D-102(15).

Dwelling unit. A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation. One room, or rooms connected together, constituting a separate, independent housekeeping establishment for one owner occupancy, or rental or lease, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities for a single family.

Sleeping unit. A room or space in which people sleep, which can also include permanent provisions for living, eating, and either sanitation or kitchen facilities but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.

Special use permit. A permit issued to authorize development or land uses in a particular zoning district upon presentation of competent, material, and substantial evidence establishing compliance with one or more general standards requiring that judgment and discretion be exercised as well as compliance with specific standards. The term includes permits previously referred to as conditional use permits or special exceptions.

Subdivision. Any division of a tract or parcel of land into two or more lots, building sites, or other divisions; for the purpose, whether immediate or future, of sale or building development, including any division of land involving the dedication of a new street or a change in existing streets; provided, that the following shall not be included within this definition, nor shall they be subject to the regulations prescribed by of this ordinance:

(5) The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the General Statutes.

1 Use, special conditional. A special conditional use is a use that would not be appropriate
2 generally or without restriction throughout a particular zoning district but which, if controlled as
3 to number, area, location, or relation to the neighborhood, would preserve the intent of this
4 ordinance to promote the public health, safety, and general welfare. Specific provisions are made
5 for conditional uses which may be permitted in certain zones and the procedures for application
6 are set out in of this ordinance.

7 **PART 8.** That **Article III** of the Zoning Ordinance of the Town of Manteo, North Carolina, is
8 hereby renamed **DEVELOPMENT APPROVALS AND FINAL PLAT**
9 **APPROVAL.**

10
11 **PART 9.** That **Article III, Part I.** of the Zoning Ordinance of the Town of Manteo, North
12 Carolina, is hereby renamed **BUILDING, ZONING AND SPECIAL USE**
13 **PERMITS AND OTHER DEVELOPMENT APPROVALS.**

14
15 **PART 10.** That **Sec. 3-1. Purpose and intent.** of the Zoning Ordinance of the Town of Manteo,
16 North Carolina, is hereby amended as follows:

17 ...

18 (c) The intent of the zoning ordinance, in regulating the permitting process as specified in this
19 article and elsewhere throughout this document, is to:

20 (1) Provide for an orderly, timely, and fair review of permits for building, zoning,
21 subdivision, special conditional use, occupancy, access, stormwater, sign, and other
22 such permits required by the town;

23 (2) Involve all interested parties, including owners, developers, adjoining property
24 owners, along with town staff, in discussion, planning, and review prior to the
25 commencement of site design in order to provide planning assistance and guidance that
26 will result in a project that can be completed in the most timely and cost-effective
27 manner possible, with the least impact on neighboring properties, and in keeping with
28 the intent of the Comprehensive Development Code; and

29 ~~(3) When amending or rescinding a previously issued special conditional use permit,~~
30 ~~provide for the same public involvement and review as when the permit was first~~
31 ~~issued, to include planning board approval, a public hearing before the Board of~~
32 ~~Commissioners, and a five-sixths majority of that board, to ensure that those citizens~~
33 ~~affected by the change have the opportunity for input.~~

34 **PART 11.** That **Sec. 3-3. Staff consultation after application submittal.** of the Zoning
35 Ordinance of the Town of Manteo, North Carolina, is hereby amended as follows:

36
37 (a) Upon receipt of a formal application for a zoning or special conditional use permit, or
38 minor plat approval, the administrator shall review the application and confer with the
39 applicant to ensure that he understands the administrator's interpretation of the applicable
40 requirements of this ordinance, that he has submitted all of the information that he intends to
41 submit, and that the application represents precisely and completely what he proposes to do.

42 (b) If the application is for a special conditional use permit, the administrator shall place the
43 application on the agenda of the Planning and Zoning Board and the town commissioners
44 when the applicant indicates that the application is as complete as he intends to make it.
45 However, as provided in section 3-7 and if the administrator believes that the application is

incomplete, he shall reject the application and inform the applicant of the reasons for the incompleteness.

PART 12. That **Sec. 3-4.** of the Zoning Ordinance of the Town of Manteo, North Carolina, is hereby amended as follows:

Sec. 3-4. – Development approvals ~~Permits required~~ and determinations.

Development Approvals -- No person shall commence or proceed with development without first securing any required development approval from the town if the town has jurisdiction over the site of the development. A development approval shall be in writing and may contain a provision requiring the development to comply with all applicable State and local laws.

(a) The use made of property may not be changed except in accordance with and pursuant to one of the following development approvals ~~permits~~:

(1) A zoning permit issued by the administrator;

(2) A zoning permit issued by the Planning and Zoning Board; or

(3) A special conditional ~~use~~ permit issued by the town commissioners.

(b) Development approvals ~~Zoning permits, sign permits, demolition permits, and special conditional use permits~~ are issued under this ordinance only when a review of the application submitted, including the plans submitted, indicates that the development will comply with the provisions of this ordinance if completed as proposed. Such plans and applications as are finally approved are incorporated into any development permit issued and all development shall occur strictly in accordance with such approved plans and applications.

(c) A development approval ~~zoning permit, sign permit or special conditional use permit~~ shall be issued in the name of the applicant (except that applications submitted by an agent shall be issued in the name of the principal) and shall identify the property involved and the proposed use. The development permit shall incorporate the plans submitted and shall contain any special conditions or requirements lawfully imposed by the ~~permit~~-issuing authority. All special conditional ~~use~~ permits shall be recorded in the Dare County Registry after execution by the record owner as provided in section 3-20.

(d) A development approval shall be in writing and may contain a provision requiring the development to comply with all applicable State and local laws. A local government may issue development approvals in print or electronic form. Any development approval issued exclusively in electronic form shall be protected from further editing once issued.

(e) Unless provided otherwise by law, all rights, privileges, benefits, burdens, and obligations created by development approvals run with the land.

Determinations -- Upon receiving a written application providing the applicable facts, information and related ordinance provisions the zoning administrator may issue a determination. The decision whether or not to issue a determination is within the sole discretion of the zoning administrator who may consult with the town manager and town attorney on the matter.

(a) If the zoning administrator issues a determination, the zoning administrator shall give written notice to the owner of the property that is the subject of the determination and to the party who sought the determination, if different from the owner. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail. The notice shall be delivered to the last address listed for the owner of the affected property on the county tax

1 abstract and to the address provided in the application or request for a determination if the
2 party seeking the determination is different from the owner.

- 3 (b) It is conclusively presumed that all persons with standing to appeal have constructive
4 notice of a determination from the date a sign providing notice that a determination has been
5 made is prominently posted on the property that is the subject of the determination, provided
6 the sign remains on the property for at least 10 days. The sign shall contain the words
7 "Zoning Decision" or "Subdivision Decision" or similar language for other determinations in
8 letters at least 6 inches high and shall identify the means to contact a local government staff
9 member for information about the determination. Posting of signs is not the only form of
10 constructive notice. Any such posting is the responsibility of the landowner, applicant, or
11 person who sought the determination. Verification of the posting shall be provided to the
12 staff member responsible for the determination.

13
14 **PART 13.** That **Sec. 3-5. Who may submit permit applications/submission requirements.** of
15 the Zoning Ordinance of the Town of Manteo, North Carolina, is hereby amended as
16 follows:
17

- 18 (a) Applications for development approvals may be made by the landowner, a lessee or person
19 holding an option or contract to purchase or lease land, or an authorized agent of the landowner.
20 An easement holder may also apply for development approval for such development as is
21 authorized by the easement, zoning, special conditional use, or sign permits or minor subdivision
22 plat approval will be accepted only from persons having the legal authority to take action in
23 accordance with the permit or the minor subdivision plat approval. By way of illustration, in
24 general this means that applications should be made by the owners of property, or their agents, or
25 persons who have contracted to purchase property contingent upon their ability to acquire the
26 necessary permits under this ordinance, or the agents of such persons (who may make application
27 in the name of such owners).
28 ...
29

30 **PART 14.** That **Sec. 3-6. Application to be complete.** of the Zoning Ordinance of the Town of
31 Manteo, North Carolina, is hereby amended as follows:
32

- 33 (a) All applications for zoning, ~~special conditional~~ use, or sign permits and stormwater impact
34 statements must be complete before the permit-issuing authority will consider the application.
35 ...
36

37 **PART 15.** That **Sec. 3-8.** of the Zoning Ordinance of the Town of Manteo, North Carolina, is
38 hereby amended as follows:
39

40 **Sec. 3-8. - ~~Special Conditional~~ use permits.**
41

- 42 (a) An application for a ~~special conditional~~ use permit shall be submitted to the town
43 commissioners by filing a copy of the application with the administrator.
44 (b) When it is considered desirable by the zoning administrator, an informal meeting between
45 the developer and the neighborhood in which the development is proposed to be situated
46 may be required before the Planning and Zoning Board or the town commissioners will
47 consider recommending or granting the ~~special conditional~~ use permit.
48 (c) When it is considered desirable by the Planning and Zoning Board or the town
49 commissioners, a public hearing may be held on any ~~special conditional~~ use. No ~~special~~

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1 ~~conditional~~ use permit applications will be considered for approval by the Planning and
2 Zoning Board or the town commissioners until the notice to adjacent property owners form
3 has been mailed to all adjacent property owners. All notification forms will be completed by
4 the zoning administrator and must be sent to all adjacent property owners by first class mail.
5 There will be a fee for each letter sent. This fee will be added to the site plan review fees
6 previously established by the town commissioners.

7 (d) The Planning and Zoning Board shall review the application for a special ~~conditional~~ use
8 permit and shall submit its recommendation as to approval or disapproval along with any
9 additional conditions or safeguards it may consider necessary to the town commissioners.
10 Written application for a special ~~conditional~~ use permit shall be submitted to the Planning
11 and Zoning Board no later than 21 days preceding the next regular monthly meeting of said
12 board.

13 (e) Subject to subsection (f), the town commissioners shall issue the requested special
14 ~~conditional~~ use permit unless they conclude, based upon the information submitted at the
15 hearing, that:

16 (1) The requested permit is not within its jurisdiction; or

17 (2) The application is incomplete; or

18 (3) If completed as proposed in the application, the development will not comply with one
19 or more requirements of this ordinance (not including those the applicant is not required
20 to comply with under the circumstances specified in Article XXI, Nonconforming
21 Situations).

22 (f) Even if the town commissioners find that the application complies with all other provisions
23 of this ordinance, they may still deny the permit if it concludes, based upon the information
24 submitted at the hearing that:

25 (1) The applicant has not met the requirements of the ordinance; or

26 (2) Granting the permit will not be in conformity with the town's land use plan or the
27 latest guidelines for development; or

28 (3) The proposed use will not be compatible with the area in which it is to be located if
29 developed under the conditions specified in the ordinance and those additionally
30 required by the town commissioners.

31 (g) Denial of a special ~~conditional~~ use permit must be based upon competent material and
32 substantial evidence which shall be made a part of the record in the case. The applicant shall
33 have an opportunity to examine such evidence and present a rebuttal or contrary evidence.

34 (h) All special ~~conditional~~ use permits must be recorded in the Dare County Registry and
35 indexed under the record owner's name as grantor.

36 (i) The town commissioners shall not rely on or use any part of the preliminary forum or
37 recommendation of the Planning and Zoning Board as a basis for its decision on the special use
38 permit

40 **PART 16.** That **Sec. 3-10.** of the Zoning Ordinance of the Town of Manteo, North Carolina, is
41 hereby amended as follows:

42
43 Sec. 3-10. - Recommendations on special ~~conditional~~ use permit applications.

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1 (a) Before being presented to the town commissioners, an application for a special conditional
2 use permit shall be referred to the Planning and Zoning Board, as provided in subsection 3-8(d),
3 for action in accordance with this section.

4 ...

5
6 **PART 17.** That **Sec. 3-11.** of the Zoning Ordinance of the Town of Manteo, North Carolina, is
7 hereby amended as follows:

8
9 Sec. 3-11. - Town commissioners' action on special conditional use permits.

10
11 In considering whether to approve an application for a special conditional use permit, the town
12 commissioners shall proceed according to the following format:

13 ...

14
15 **PART 18.** That **Sec. 3-12.** of the Zoning Ordinance of the Town of Manteo, North Carolina, is
16 hereby amended as follows:

17
18 Sec. 3-12. - Additional requirements on special conditional use permits.

19
20 (a) In granting a special conditional use permit, the town commissioners may attach to the
21 permit such reasonable ~~requirements in addition to those specified in this ordinance if and~~
22 appropriate conditions and safeguards upon the permit. Where appropriate, such conditions
23 may include requirements that street and utility rights-of-way be dedicated to the public and
24 that provision be made for recreational space and facilities. Conditions and safeguards
25 imposed shall not include requirements for which the town does not have authority under
26 statute to regulate nor requirements for which the courts have held to be unenforceable if
27 imposed directly by the local government, including, without limitation, taxes, impact fees,
28 building design elements within the scope of G.S. 160D-702(b), driveway-related
29 improvements in excess of those allowed in G.S. 136-18(29) and G.S. 160A-307, or other
30 unauthorized limitations on the development or use of land. In developing such reasonable
31 and appropriate conditions, the town commissioners may consider, among other things, the
32 following factors:

33 (1) The applicant has met the requirements of the ordinance; or

34 (2) Granting the permit will be in conformity with the town's land use plan, the Town
35 of Manteo Plan Update, or the latest adopted guidelines for development entitled the
36 "Manteo Way of Building;" or

37 (3) The proposed use will be compatible with the area in which it is to be located if
38 developed under the conditions specified in the ordinance and those additionally
39 required by the town commissioners.

40 (b) The town commissioners may not attach additional conditions that modify or alter the
41 specific requirements set forth in this ordinance unless the development in question
42 presents extraordinary circumstances that justify the variation from the specified
43 requirements.

44 (c) The town commissioners may attach to a permit a condition limiting the permit to a
45 specified duration.

46 (d) All additional conditions or requirements shall be entered on the permit.

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- 1 (e) All additional conditions or requirements authorized by this section are enforceable in
2 the same manner and to the same extent as any other applicable requirement of this
3 ordinance.
- 4 (f) A vote may be taken on application conditions or requirements before consideration of
5 whether the permit should be denied for any of the reasons set forth in this ordinance.
- 6 (g) The town commissioners may inquire whether the applicant is willing to consent in
7 writing to the conditions proposed.

8 **PART 19.** That **Sec. 3-13. Completing developments in phases.** of the Zoning Ordinance of
9 the Town of Manteo, North Carolina, is hereby amended as follows:

- 10 ...
- 11 (b) Phased development requires a master plan special conditional use permit (MPCUP).
12 Following the MPCUP approval, each phase, stage or individual structure that requires a building
13 permit must have a separate site specific special conditional use permit (SSCUP). The process
14 shall follow the special conditional use permit process laid out in section 3-8 and shall include a
15 review of compliance with the "Manteo Way of Building: a Guide for Development", in addition
16 to other requirements set forth in the CDC.
- 17 ...

18 ...

19 **PART 20.** That **Sec. 3-18.** of the Zoning Ordinance of the Town of Manteo, North Carolina, is
20 hereby amended as follows:

21 ...

22 Sec. 3-18. - Authorizing use or occupancy before completion of development under special
23 conditional use permits.

- 24 ...
- 25 (a) In cases when, because of weather conditions or other factors beyond the control of the
26 special conditional use permit recipient (exclusive of financial hardship) it would be
27 unreasonable to require the permit recipient to comply with all of the requirements of this
28 ordinance before commencing the intended use of the property or occupying any buildings,
29 the town commissioners may authorize the commencement of the intended use or the
30 occupancy of buildings (insofar as the requirements of this ordinance are concerned) if the
31 permit recipient provides a performance guarantee in the manner provided by Section 3-41. a
32 certified check, irrevocable letter of credit, performance bond, certificate of deposit, or other
33 security satisfactory to town commissioners for 125 percent, or \$10,000.00, whichever is
34 greater, of the cost of the required improvements to ensure that all of these requirements will
35 be fulfilled within a reasonable period (not to exceed 12 months).
- 36 (b) When the town commissioners impose additional requirements upon the permit recipient in
37 accordance with section 3-12 or when the developer proposes in the plans submitted to
38 install amenities beyond those required by this ordinance, the town commissioners may
39 authorize the permitted party to commence the intended use of the property or to occupy any
40 building before the additional requirements are fulfilled or the amenities installed if they
41 specify a date by which or a schedule according to which such requirements must be met or
42 each amenity installed and if they conclude that compliance will be ensured as the result of
43 any one or more of the following:
- 44 (1) A performance guarantee Surety, satisfactory to the town commissioners, is furnished
45 in the manner provided by Section 3-41;
- 46 (2) A condition is imposed establishing an automatic expiration date on the permit,
47 thereby ensuring that the permit recipient's compliance will be reviewed when
48 application for renewal is made; or

145

1 (3) The nature of the requirements or amenities is such that sufficient assurance of
2 compliance is given; and

3 (4) ~~An irrevocable letter of credit that can be executed at a local bank.~~

4
5 **PART 21.** That **Sec. 3-19. Expiration of permits.** of the Zoning Ordinance of the Town of
6 Manteo, North Carolina, is hereby amended as follows:
7

8 (a) Development permits expire one year after issuance unless work authorized by the permit
9 has substantially commenced. A development permit is issued either in the ordinary course
10 of business of the applicable governmental agency or by the applicable governmental agency
11 as a court directive. Zoning, special conditional use permits, and sign permits shall expire
12 automatically if, within one year after the issuance of such permits:

13 (1) ~~The use authorized by such permits has not commenced, in circumstances where no~~
14 ~~substantial construction, erection, alteration, excavation, demolition, or similar work is~~
15 ~~necessary before commencement of such use, or~~

16 (2) ~~Less than ten percent of the total cost of all construction, erection, alteration,~~
17 ~~excavation, demolition, or similar work on any development authorized by such permits~~
18 ~~has been completed on the site. With respect to phased development, (see section 3-13),~~
19 ~~this requirement shall apply only to the first phase.~~

20 (b) A development permit expires for an uncompleted development project if development
21 work is intentionally and voluntarily discontinued for a period of not less than 24
22 consecutive months, and the statutory vesting period for a nonconforming use of property
23 expires if the use is intentionally and voluntarily discontinued for a period of not less than 24
24 consecutive months. The 24-month discontinuance period is automatically tolled during the
25 pendency of any board of adjustment proceeding or civil action in a State or federal trial or
26 appellate court regarding the validity of a development permit, the use of the property, or the
27 existence of the statutory vesting period granted by this section. The 24-month
28 discontinuance period is also tolled during the pendency of any litigation involving the
29 development project or property that is the subject of the vesting. If, after some physical
30 alteration to land or structures begins, and such work is discontinued for a period of one
31 year, then the zoning, special conditional use or sign permit authorizing such work shall
32 immediately expire. However, expiration of the permit shall not affect the provisions of this
33 section.

34 (c) The permit-issuing authority may extend, for a period up to six months, the date when a
35 development zoning, special conditional use or sign permit would otherwise expire pursuant
36 to subsections (a) or (b) if it concludes that:

37 (1) The permit has not yet expired,

38 (2) The permit recipient has proceeded with due diligence and in good faith, and

39 (3) Conditions have not changed so substantially as to warrant a new application.
40 Successive extensions may be granted for periods up to six months (for a total period
41 not to exceed two years) upon the same findings. All such extensions may be granted
42 without resort to the formal processes and fees required for a new permit.

43 (d) ~~For purposes of this section, the special conditional use permit is issued when the town~~
44 ~~commissioners vote to approve the application and issue the permit. A zoning permit or sign~~
45 ~~permit within the jurisdiction of the administrator is issued when either of the following~~
46 ~~takes place:~~

- 1 (1) ~~A copy of the fully executed permit is delivered to the permit recipient, and delivery is~~
 2 ~~accomplished when the permit is hand delivered or mailed to the permit applicant; or~~
 3 (2) ~~The administrator notifies the permit applicant that the application has been approved~~
 4 ~~and that all that remains before a fully executed permit can be delivered is for the~~
 5 ~~applicant to take certain specified actions, such as having the permit executed by the~~
 6 ~~property owner so it can be recorded if required under subsection (b) above.~~
 7 (e) ~~Demolition permits shall expire 60 days from the start of demolition work. An extension of~~
 8 ~~30 days may be allotted at the discretion of the zoning administrator.~~
 9

10 **PART 22.** That **Sec. 3-20. Effect of permit on successors and assigns.** of the Zoning
 11 Ordinance of the Town of Manteo, North Carolina, is hereby amended as follows:
 12

- 13 (a) Zoning, special conditional use permits, and sign permits authorize the permitted party to
 14 make use of land and structures in a particular way. Such permits are transferable. However,
 15 so long as the land or structures or any portion covered under a permit continues to be used
 16 for the purposes for which the permit was granted, then no person (including successors or
 17 assigns of the person who obtained the permit) may make use of the land or structures
 18 covered under such permit for the purposes authorized in the permit except in accordance
 19 with all the terms and requirements of that permit.
 20 (b) Whenever a special conditional use permit is issued to authorize development, nothing
 21 authorized by the permit may be done until the record owner of the property signs a written
 22 acknowledgement that the permit has been issued so that the permit may be recorded in the
 23 Dare County Registry and indexed under the record owner's name as grantor.
 24

25 **PART 23.** That **Sec. 3-21. Amendments to and modifications of permits.** of the Zoning
 26 Ordinance of the Town of Manteo, North Carolina, is hereby amended as follows:
 27

28 ...

- 29 (b) Minor design modifications or changes in permits, including approved plans (for example,
 30 a change in windows and door sizes and styles), are permissible with the approval of the
 31 permit-issuing authority. Such permission may be obtained without a formal application,
 32 public hearing, or payment of any additional fee. For purposes of this section, minor
 33 modifications or changes are those that have no substantial impact on neighboring
 34 properties, the general public, or those intended to occupy or use the proposed development
 35 and for special use permits do not involve a change in uses permitted or the density of
 36 overall development permitted.
 37 ...

38 **PART 24.** That **Sec. 3-22. Reconsideration of board action.** of the Zoning Ordinance of the
 39 Town of Manteo, North Carolina, is hereby amended as follows:
 40

- 41 (a) Whenever the town commissioners disapprove an application for a special conditional use
 42 permit or the Board of Adjustment disapproves an application for a variance, on any basis
 43 other than the failure of the applicant to submit a complete application, such action may not
 44 be reconsidered by the respective board at a later time unless the applicant clearly
 45 demonstrates that:
 46 ...

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1
2 **PART 25.** That **Sec. 3-24. Maintenance of common areas, improvements, and facilities.** of
3 the Zoning Ordinance of the Town of Manteo, North Carolina, is hereby amended as
4 follows:
5

6 The recipient of any zoning or special conditional use permit, or his successor, shall be
7 responsible for maintaining all common areas, improvements or facilities required by this
8 ordinance or any permit issued in accordance with its provisions, except those areas,
9 improvements or facilities with respect to which an offer of dedication to the public has been
10 accepted by the appropriate public authority. As illustrations, this means that private roads and
11 parking areas, water and sewer lines, and recreational facilities must be properly maintained so
12 that they can be used in the manner intended, and required vegetation and trees used for
13 screening, landscaping, or shading must be replaced if they die or are destroyed.

14
15 **PART 26.** That **Sec. 3-36. Regulation of Subdivisions.** of the Zoning Ordinance of the Town of
16 Manteo, North Carolina, is hereby amended as follows:
17

18 (a) The authority as to regulation of land subdivision generally is granted by Article 8, Chapter
19 160D of the North Carolina General Statutes G.S. 160A-371 through 160A-376.

20 ...

21 (c) Subdivisions are subject to a two-step approval process. Physical improvements to the land
22 to be subdivided are authorized by a special conditional use permit, and sale of lots is permitted
23 after final plat approval as provided in section 3-39.
24

25 **PART 27.** That **Sec. 3-38. Subdivision approval process.** of the Zoning Ordinance of the Town
26 of Manteo, North Carolina, is hereby amended as follows:
27

28 (a) The zoning administrator shall approve or disapprove minor subdivision final plats in
29 accordance with the provisions of this section. Only a final plat for recordation is required to
30 be provided for the division of a tract or parcel of land in single ownership if all of the
31 following criteria are met:

32 (1) The tract or parcel to be divided is not exempted as a division of land into parcels
33 greater than 10 acres where no street right-of-way dedication is involved.

34 (2) No part of the tract or parcel to be divided has been divided under this subsection in
35 the 10 years prior to division.

36 (3) The entire area of the tract or parcel to be divided is greater than 5 acres.

37 (4) After division, no more than three lots result from the division.

38 (5) After division, all resultant lots comply with all of the following:

39 a. All lot dimension size requirements of the applicable land-use regulations, if any.

40 b. The use of the lots is in conformity with the applicable zoning requirements, if
41 any.

42 c. A permanent means of ingress and egress is recorded for each lot.

43 ...

- (d) The zoning administrator shall approve the proposed plat unless he finds that the plat or the proposed subdivision fails to comply with one or more of the requirements of this ordinance, the plat is not in conformity with the CAMA Land Use Plan, the Manteo Plan Update (including future amendments and updates), the Design Guidelines: The Manteo Way of Building, and other planning documents, or that the final plat differs substantially from the plans and specifications approved in conjunction with the special conditional use permit that authorized the development of the subdivision.

...
PART 28. That **Sec. 3-39. Endorsements on subdivision plats.** of the Zoning Ordinance of the Town of Manteo, North Carolina, is hereby amended as follows:

All subdivision plats shall contain the endorsements listed in subsections (1), (2), and (3) herein.

(1) *Certificate of approval:*

I hereby certify that all streets shown on this plat are within the Town of Manteo's planning jurisdiction, all streets and other improvements shown on this plat have been installed or completed or that their installation or completion (within twelve (12) months after the date below) has been assured by the posting of a performance ~~guarantee bond or other sufficient surety~~, and that the subdivision shown on this plat is in all respects in compliance with the Town of Manteo Unified Development Ordinance, and this plat has been approved by the Manteo Zoning Administrator, subject to being recorded in the Dare County Registry within sixty (60) days of the date below.

_____, Zoning Administrator

_____, Date

...
PART 29. That **Sec. 3-41. Protection against defects.** of the Zoning Ordinance of the Town of Manteo, North Carolina, is hereby amended as follows:

- (a) Performance guarantees -- Whenever (pursuant to section 3-18) occupancy, use or sale is allowed before the completion of all facilities or improvements intended for dedication, including water and sewer lines, then the town may require a performance bond or the surety that is posted pursuant to section 3-18 shall guarantee to assure successful completion of required improvements. that any defects in such improvements or facilities that appear within one year after the dedication of such facilities or improvements is accepted shall be corrected by the developer.
- (b) Type.--The type of performance guarantee shall be at the election of the developer. The term "performance guarantee" means any of the following forms of guarantee:
- a. Surety bond issued by any company authorized to do business in this State.
 - b. Letter of credit issued by any financial institution licensed to do business in this State.
 - c. Other form of guarantee that provides equivalent security to a surety bond or letter of credit.

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- 1 (c) Duration.--The duration of the performance guarantee shall initially be one year, unless the
2 developer determines that the scope of work for the required improvements necessitates a
3 longer duration. In the case of a bonded obligation, the completion date shall be set one year
4 from the date the bond is issued, unless the developer determines that the scope of work for
5 the required improvements necessitates a longer duration.
- 6 (d) Extension.--A developer shall demonstrate reasonable, good-faith progress toward
7 completion of the required improvements that are secured by the performance guarantee or
8 any extension. If the improvements are not completed to the specifications of the town, and
9 the current performance guarantee is likely to expire prior to completion of the required
10 improvements, the performance guarantee shall be extended, or a new performance
11 guarantee issued, for an additional period. An extension under this subdivision shall only be
12 for a duration necessary to complete the required improvements. If a new performance
13 guarantee is issued, the amount shall be determined by the procedure provided in subdivision
14 (f) of this subsection and shall include the total cost of all incomplete improvements.
- 15 (e) Release.--The performance guarantee shall be returned or released, as appropriate, in a
16 timely manner upon the acknowledgement by the town that the improvements for which the
17 performance guarantee is being required are complete. The town shall return letters of credit
18 or escrowed funds upon completion of the required improvements to its specifications or
19 upon acceptance of the required improvements, if the required improvements are subject to
20 town acceptance. When required improvements that are secured by a bond are completed to
21 the specifications of the town, or are accepted by the town, if subject to its acceptance, upon
22 request by the developer, the town shall timely provide written acknowledgement that the
23 required improvements have been completed.
- 24 (f) Amount.--The amount of the performance guarantee shall not exceed one hundred twenty-
25 five percent (125%) of the reasonably estimated cost of completion at the time the
26 performance guarantee is issued. The town may determine the amount of the performance
27 guarantee or use a cost estimate determined by the developer. The reasonably estimated cost
28 of completion shall include one hundred percent (100%) of the costs for labor and materials
29 necessary for completion of the required improvements. Where applicable, the costs shall be
30 based on unit pricing. The additional twenty-five percent (25%) allowed under this
31 subdivision includes inflation and all costs of administration regardless of how such fees or
32 charges are denominated. The amount of any extension of any performance guarantee shall
33 be determined according to the procedures for determining the initial guarantee and shall not
34 exceed one hundred twenty-five percent (125%) of the reasonably estimated cost of
35 completion of the remaining incomplete improvements still outstanding at the time the
36 extension is obtained.
- 37 (g) Timing.--The town, at its discretion, may require the performance guarantee to be posted
38 either at the time the plat is recorded or at a time subsequent to plat recordation.
- 39 (h) Coverage.--The performance guarantee shall only be used for completion of the required
40 improvements and not for repairs or maintenance after completion.
- 41 (i) Legal responsibilities.--No person shall have or may claim any rights under or to any
42 performance guarantee provided pursuant to this subsection or in the proceeds of any such
43 performance guarantee other than the following:
- 44 a. The town to whom the performance guarantee is provided.
45 b. The developer at whose request or for whose benefit the performance guarantee is
46 given.

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c. The person or entity issuing or providing the performance guarantee at the request of or for the benefit of the developer.

(j) Multiple guarantees.--The developer shall have the option to post one type of a performance guarantee as provided for in subdivision (1) of this section, in lieu of multiple bonds, letters of credit, or other equivalent security, for all development matters related to the same project requiring performance guarantees.

~~Whenever all public facilities or improvements intended for dedication are installed before occupancy, use, or sale is authorized, then the developer shall post a performance bond or other sufficient surety to guarantee that he will correct all defects in such facilities or improvements that occur within one year after the offer of dedication of such facilities or improvements is accepted.~~

(ke) Certification required -- An architect or engineer retained by the developer shall certify to the town that all facilities and improvements to be dedicated to the town have been constructed in accordance with the requirements of this ordinance. The architect or engineer will certify as-built drawings, including water, sewer, cable, telephone, and electric, and submit to the town. This certification shall be a condition precedent to acceptance by the town of the offer of dedication of such facilities or improvements.

~~(d) For purposes of this section, the term "defects" refers to any condition in publicly dedicated facilities or improvements that requires the town to make repairs in such facilities over and above the normal amount of maintenance that they would require. If such defects appear, the guaranty may be enforced regardless of whether the facilities or improvements were constructed in accordance with the requirements of this ordinance.~~

PART 30. That **Sec. 4-5.** of the Zoning Ordinance of the Town of Manteo, North Carolina, is hereby amended as follows:

Sec. 4-5. - Special Conditional uses permitted by town commissioners.

The following are uses that may be permitted by the issuance of a special conditional use permit, subject to the requirements of this district and additional regulations and requirements imposed by the town commissioners:

...

PART 31. That **Sec. 5-5.** of the Zoning Ordinance of the Town of Manteo, North Carolina, is hereby amended as follows:

Sec. 5-5. - Special Conditional uses permitted by town commissioners.

The following are uses that may be permitted by the issuance of a special conditional use permit, subject to the requirements of this district and additional regulations and requirements imposed by the town commissioners:

...

PART 32. That **Sec. 6-5.** of the Zoning Ordinance of the Town of Manteo, North Carolina, is hereby amended as follows:

1
2 Sec. 6-5. - ~~SpecialConditional~~ uses permitted by town commissioner.

3
4 The following are uses that may be permitted by the issuance of a ~~special conditional~~ use
5 permit, subject to the requirements of this district and additional regulations and requirements
6 imposed by the town commissioners:

7 ...
8
9 **PART 33.** That **Sec. 7-5.** of the Zoning Ordinance of the Town of Manteo, North Carolina, is
10 hereby amended as follows:

11
12 Sec. 7-5. - ~~Special special conditional~~ uses permitted by town commissioners.

13
14 The following are uses permitted by the issuance of a ~~special conditional~~ use permit,
15 subject to the requirements of this district and additional regulations and requirements imposed
16 by the town commissioners:

17 ...
18
19 **PART 34.** That **Sec. 8-5.** of the Zoning Ordinance of the Town of Manteo, North Carolina, is
20 hereby amended as follows:

21
22 Sec. 8-5. - ~~SpecialConditional~~ uses permitted by the town commissioners.

23
24 The following are uses that may be permitted by the issuance of a ~~special conditional~~ use
25 permit, subject to the requirements of this district and additional regulations and requirements
26 imposed by the town commissioners:

27 ...
28
29 **PART 35.** That **Sec. 9-5.** of the Zoning Ordinance of the Town of Manteo, North Carolina, is
30 hereby amended as follows:

31
32 Sec. 9-5. - ~~SpecialConditional~~ uses permitted by the town commissioners.

33
34 (a) *Uses not permitted in B-3:*

35 (1) Unless the use is listed, it is prohibited. In addition, communication towers, restaurants
36 with drive-through service, as well as stock-designed buildings are not permitted.
37 Internally lighted wall signs are not permitted.

38 (b) The following uses are permitted by the issuance of a ~~special conditional~~ use permit,
39 subject to the requirements of this district and additional regulations and requirements imposed
40 by the town commissioners:

41 ...

42

1 **PART 36.** That **Sec. 10-5.** of the Zoning Ordinance of the Town of Manteo, North Carolina, is
2 hereby amended as follows:

3
4 Sec. 10-5. - ~~Special Conditional~~ uses permitted by the town commissioners.
5

6 (a) *Uses not permitted in B-4:*

7 (1) Unless the use is listed, it is prohibited. In addition, communication towers, restaurants
8 with drive-through service, as well as stock-designed buildings are not permitted.
9 Internally lighted wall signs are not permitted.

10 (b) The following are uses permitted by the issuance of a ~~special conditional~~ use permit,
11 subject to the requirements of this district and additional regulations and requirements imposed
12 by the town commissioners:
13 ...

14
15 **PART 37.** That **Sec. 11-4. Application and inclusionary housing plan.** of the Zoning
16 Ordinance of the Town of Manteo, North Carolina, is hereby amended as follows:
17

18 (a) *Application.* For all covered developments, the applicant shall file an application for
19 approval on a form provided and required by the town. The application shall require, and the
20 applicant shall provide, among other things, general information about the nature and scope of the
21 covered development, as well as such other documents and information as the town may require.
22 The application shall be reviewed concurrently with the planning and zoning application and shall
23 be treated procedurally as a ~~special conditional~~ use in accordance with the town planning and
24 zoning ordinance.
25 ...

26
27 **PART 38.** That **Sec. 11-6. Development agreement and other documents.** of the Zoning
28 Ordinance of the Town of Manteo, North Carolina, is hereby amended as follows:
29

30 Prior to issuance of a building permit for any covered development, the applicant shall have
31 entered into a development agreement with the town regarding the specific requirements and
32 restrictions regarding affordable housing and the covered development. Before entering into the
33 development agreement, the town commissioners shall conduct a legislative hearing on the
34 proposed agreement. The notice provisions of G.S. 160D-602 applicable to zoning map
35 amendments shall be followed for this hearing. The notice for the hearing must specify the
36 location of the property subject to the development agreement, the development uses proposed on
37 the property, and must specify a place where a copy of the proposed development agreement can
38 be obtained. The development agreement shall comply with the requirements of G.S. Chap.
39 160D, Art. 10.

40 The applicant shall execute any and all documents deemed necessary by the town, including
41 without limitation, restrictive covenants and other related instruments, to ensure the continued
42 affordability of the affordable housing units or lots in accordance with this chapter. The
43 development agreement shall set forth the commitments and obligations of the town and the
44 applicant and shall incorporate, among other things, the inclusionary housing plan, all to be
45 recorded in the Dare County Register of Deeds.
46

47 **PART 39.** That **Sec. 12-2.1. Pawnshops.** of the Zoning Ordinance of the Town of Manteo,
48 North Carolina, is hereby amended as follows:

153

1
2 ...
3 (c) Pawnshops shall be special conditional uses in the B-1, B-2, and B-3, and are prohibited in
4 all other zones.

5
6 **PART 40.** That **Sec. 12-8.1. Wind generation facility.** of the Zoning Ordinance of the Town of
7 Manteo, North Carolina, is hereby amended as follows:
8

9 ...
10 (g) *Validity of permits.* A special conditional use permit issued pursuant to this section shall
11 expire if the improvements permitted are not completely constructed within 12 months of the date
12 of the approval of a building permit.
13 ...

14
15 **PART 41.** That **Sec. 12-17. Combination of uses.** of the Zoning Ordinance of the Town of
16 Manteo, North Carolina, is hereby amended as follows:
17

18 (a) When a combination use comprises two or more principal uses that require different types
19 of permits (zoning and special conditional use), then the permit authorizing the combination
20 use shall be:

21 (1) A special conditional use permit if any of the principal uses combined requires a
22 special conditional use permit.

23 (2) A zoning permit in all other cases.
24 ...

25
26 **PART 42.** That **Sec. 14-3. Table of parking requirements.** of the Zoning Ordinance of the
27 Town of Manteo, North Carolina, is hereby amended as follows:
28

29 ...

11	Elementary, middle and high school (including associated grounds and athletic and other facilities)	One space for each classroom and administrative office for elementary and middle schools; one space for each five students for which the building was designed, plus one space for each classroom and administrative offices for high schools (may be adjusted during the <u>special conditional</u> use permit process)
12	Colleges, universities, community colleges, (including associated facilities)	One space per office plus 7 spaces per classroom plus 1 space per 4 seats in lecture hall (may be adjusted during the <u>special conditional</u> use permit process)

30 ...
31
32 **PART 43.** That **Sec. 15-3. Location of required buffers.** of the Zoning Ordinance of the Town
33 of Manteo, North Carolina, is hereby amended as follows:
34

35 ...
36 (2) *Opaque screen buffer.* Required where a commercial or institutional use or zone abuts
37 a residential use or zone. The Planning and Zoning Board may determine which

variation of opaque screen buffer is appropriate as part of a special conditional use. There are three variations listed in subsection 15-4(2).

PART 44. That **Sec. 16-4. - Dedication of drainage ditches.** of the Zoning Ordinance of the Town of Manteo, North Carolina, is hereby amended as follows:

(c) An executed general warranty deed conveying the dedicated land to the town shall be submitted to the town within 30 working days of the approval by the town commissioners of a special conditional use permit.

PART 45. That **Sec. 20-2. - Location of utilities.** of the Zoning Ordinance of the Town of Manteo, North Carolina, is hereby amended as follows:

(b) The installation of ~~electric power~~, cable television, and telephone lines beneath the surface of the ground is mandatory, unless those lines can follow existing pathways as in updating, replacing, or adding service. Service may follow existing pathways, so long as the size and capacity remains the same.

(c) A developer or builder must bury power lines underneath the surface of the ground if all of the following criteria are not met:

(1) The power lines existed above ground at the time of first approval of a plat or development plan by the town, whether or not the power lines are subsequently relocated during construction of the subdivision or development plan.

(2) The power lines are located outside the boundaries of the parcel of land that contains the subdivision or the property covered by the development plan.

(de) At such time as main service utilities are put underground, then all utilities must go underground.

(ed) Every development shall be reviewed by the zoning administrator and the public works director and they shall determine the appropriate location and screening.

PART 46. That **Sec. 21-4. - Extension or enlargement of nonconforming situations.** of the Zoning Ordinance of the Town of Manteo, North Carolina, is hereby amended as follows:

(d) ~~Uses under special conditional~~ -use provisions. Any use which is permitted as a special conditional use in a district under the terms of this ordinance shall not be deemed a nonconforming use in such district but shall, without further action, be considered a conforming use.

PART 47. That **Sec. 21-6. - Change in use of property where a nonconforming situation exists.** of the Zoning Ordinance of the Town of Manteo, North Carolina, is hereby amended as follows:

- 1 (a) A change in use of property that is sufficiently substantial to require a new zoning permit or
2 special conditional use permit may not be made except in the following circumstances:

3 ...
4
5 **PART 48.** That **Sec. 21-8. - Completion of nonconforming projects.** of the Zoning Ordinance
6 of the Town of Manteo, North Carolina, is hereby amended as follows:

7
8 As provided in NCGS § ~~160D-108~~^{160A-385}(b), neither this ordinance or any amendment
9 to it shall, without the written consent of the property owner, affect any lot with respect to which
10 a development building permit has been issued pursuant to NCGS § 160A-417 prior to the
11 enactment of the ordinance making the change so long as the development building permit
12 remains valid, unexpired, and unrevoked.

13
14 **PART 49.** That **Sec. 22-1.** of the Zoning Ordinance of the Town of Manteo, North Carolina, is
15 hereby amended as follows:

16
17 **Sec. 22-1. - Complaints and inspections regarding violations.**
18

19 (a) Complaints -- Whenever the administrator receives a written, signed complaint alleging a
20 violation of this ordinance or any other town development regulation, he shall investigate the
21 complaint, perform any necessary inspections, take whatever action is warranted, and inform the
22 complainant in writing what actions have been or will be taken.

23 (b) Inspections -- Administrative staff may inspect work undertaken pursuant to a
24 development approval to assure that the work is being done in accordance with applicable State
25 and local laws and of the terms of the approval. In exercising this power, staff are authorized to
26 enter any premises within the jurisdiction of the local government at all reasonable hours for the
27 purposes of inspection or other enforcement action, upon presentation of proper credentials;
28 provided, however, that the appropriate consent has been given for inspection of areas not open to
29 the public or that an appropriate inspection warrant has been secured.
30

31 **PART 50.** That **Sec. 22-3. - Procedures upon discovery of violations.** of the Zoning Ordinance
32 of the Town of Manteo, North Carolina, is hereby amended as follows:
33

- 34 (a) Notices of Violation.--When the appropriate development official determines work or
35 activity has been undertaken in violation of a town development regulation adopted by the
36 town or any State law delegated to the local government for enforcement purposes in lieu of
37 the State or in violation of the terms of a development approval, a written notice of violation
38 may be issued. The notice of violation shall be delivered to the holder of the development
39 approval and to the landowner of the property involved, if the landowner is not the holder of
40 the development approval, by personal delivery, electronic delivery, or first-class mail and
41 may be provided by similar means to the occupant of the property or the person undertaking
42 the work or activity. The notice of violation may be posted on the property. The person
43 providing the notice of violation shall certify that the notice was provided, and the certificate
44 shall be deemed conclusive in the absence of fraud. Except as provided for building code
45 enforcement orders under G.S. 160D-1123 or minimum housing orders under G.S. 160D-
46 1206 or otherwise provided by law, a notice of violation may be appealed to the board of
47 adjustment. If the administrator finds that any provision of this ordinance is being violated,
48 he shall send a written notice to the person responsible for such violation, indicating the

1 nature of the violation and ordering the action necessary to correct it. Additional written
2 notices may be sent at the administrator's discretion.

3 (b) Stop Work Orders.--Whenever any work or activity subject to a town development
4 regulation or any State law delegated to the local government for enforcement purposes in
5 lieu of the State is undertaken in substantial violation of any State or local law, or in a
6 manner that endangers life or property, staff may order the specific part of the work or
7 activity that is in violation or presents such a hazard to be immediately stopped. The order
8 shall be in writing, directed to the person doing the work or activity, and shall state the
9 specific work or activity to be stopped, the reasons therefor, and the conditions under which
10 the work or activity may be resumed. A copy of the order shall be delivered to the holder of
11 the development approval and to the owner of the property involved (if that person is not the
12 holder of the development approval) by personal delivery, electronic delivery, or first-class
13 mail. The person or persons delivering the stop work order shall certify that the order was
14 delivered and that certificate shall be deemed conclusive in the absence of fraud. Except as
15 provided for building code violations stop work orders by G.S. 160D-1114 and minimum
16 housing orders by G.S. 160D-1208, a stop work order may be appealed to the board of
17 adjustment. No further work or activity shall take place in violation of a stop work order
18 pending a ruling on the appeal. Violation of a stop work order shall constitute a Class 1
19 misdemeanor. The written notice shall state what action the administrator intends to take if
20 the violation is not corrected.

21 (e) ~~In cases when delay would seriously threaten the effective enforcement of this ordinance or~~
22 ~~pose a danger to the public health, safety, or welfare, the administrator may seek~~
23 ~~enforcement without prior written notice by invoking any of the penalties or remedies~~
24 ~~authorized in section 22-4.~~

25
26 **PART 51.** That Sec. 22-4. - **Penalties and remedies for violations.** of the Zoning Ordinance of
27 the Town of Manteo, North Carolina, is hereby amended as follows:
28

29 (a) Violations of the provisions of this ordinance or failure to comply with any of its
30 requirements, including violations of any conditions and safeguards established in
31 connection with grants of variances or special conditional use permits, shall constitute a
32 misdemeanor under G.S. 14-4 and each day's continuing violation shall be a separate
33 offense.

34 ...
35 (c) Notwithstanding the criminal penalties, civil penalties or both, the permit-issuing authority
36 may institute a civil action against the offender seeking enforcement by appropriate
37 equitable remedy, injunction, and order of abatement or by any remedy authorized by G.S.
38 160A-175 and G.S. 160D-404~~160A-389~~ as amended.

39 ...
40
41 **PART 52.** That Sec. 22-5. of the Zoning Ordinance of the Town of Manteo, North Carolina, is
42 hereby amended as follows:
43

44 Sec. 22-5. - Development approval ~~Permit~~ revocation.

45 (a) Development approvals may be revoked by notifying the holder in writing stating the
46 reason for the revocation. The town shall follow the same development review and approval
47 process required for issuance of the development approval, including any required notice or
48 hearing, in the review and approval of any revocation of that approval. Development

approvals shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of any applicable local development regulation or any State law delegated to the local government for enforcement purposes in lieu of the State; or for false statements or misrepresentations made in securing the approval. Any development approval mistakenly issued in violation of an applicable State or local law may also be revoked. The revocation of a development approval by a staff member may be appealed pursuant to G.S. 160D-405 XXX. If an appeal is filed regarding the provisions of G.S. 160D-405(e) regarding stays apply.

A building, zoning, sign, or ~~special conditional use permit~~ may be revoked by the permit-issuing authority (in accordance with the provisions of this section) if the permit recipient fails to develop or maintain the property in accordance with the plans submitted, the requirements of this ordinance, or any additional requirements lawfully imposed by the permit-issuing authority.

(b) ~~Before a special conditional use permit may be revoked, all of the notice and hearing and other requirements of Article III, sections 3-8 through 3-12 shall be complied with. The notice shall inform the permit recipient of the alleged grounds for the revocation.~~

(1) ~~The burden of presenting evidence sufficient to authorize the town commissioners to conclude that a permit should be revoked for any of the reasons set forth in subsection (a) shall be upon the party advocating that position. The burden of persuasion shall also be upon that party.~~

(2) ~~A motion to revoke a permit shall include a statement of the specific reasons or findings of fact that support the motion.~~

(e) ~~Before a building or zoning permit may be revoked, the administrator shall give the permit recipient ten days' notice of intent to revoke the permit and shall inform the recipient of the alleged reasons for the revocation.~~

(b)(d) ~~No person may continue to make use of land or buildings in the manner authorized by any building, zoning, sign, or special conditional use permit or other development approval after such permit development approval has been revoked in accordance with this section.~~

PART 53. That **Sec. 22-6. - Judicial review.** of the Zoning Ordinance of the Town of Manteo, North Carolina, is hereby amended as follows:

(a) Every decision of the town commissioners granting or denying a special conditional use permit shall be subject to review by the Superior Court of Dare County by proceedings in the nature of certiorari pursuant to G.S. 160D-1402+60A-393.

...

PART 54. That **Sec. 23-4. - Powers and duties.** of the Zoning Ordinance of the Town of Manteo, North Carolina, is hereby amended as follows:

(a) *Appeals.* The board shall hear and decide appeals of decisions of administrative officials charged with enforcement of the zoning code, and may hear appeals arising out of any other ordinance that regulates land use or development. For the purposes of this article, the term "administrative official" shall mean any town employee whose official duties include administration and enforcement of the zoning code, as well as the planning board in those instances whether the administration and enforcement of the zoning code has been delegated to that body by the Board of Commissioners.

1 Appeals shall be heard pursuant to the following:

- 2 (1) Any person who has standing under G.S. ~~160D-1402(c)~~160A-393(d) or the Town of
3 Manteo may appeal a decision to the Board of Adjustment. A written notice of appeal
4 stating the grounds for the appeal must be filed with the town clerk. A notice of appeal
5 shall be considered filed with the town clerk and the Board of Adjustment when
6 delivered to the town hall, and the date and time of filing shall be entered on the notice
7 by the administrator.
- 8 (2) The official who made the decision - or in the case of the planning board, the chairman
9 of the planning board or his or her designee - shall give written notice to the owner of
10 the property that is the subject of the decision and to the party who sought the decision,
11 if different from the owner. The written notice must be delivered by personal delivery,
12 electronic mail or by first-class mail.
- 13 (3) The owner or other party shall have 30 days from receipt of the written notice within
14 which to file an appeal. Any other person with standing to appeal shall have 30 days
15 from receipt from any source of actual or constructive notice of the decision within
16 which to file an appeal. In the absence of evidence to the contrary, notice given
17 pursuant to G.S. 160D-403(b) by first-class mail is deemed received on the third
18 business day following deposit of the notice for mailing with the United States Postal
19 Service.
- 20 (4) It shall be conclusively presumed that all persons with standing to appeal decisions of
21 administrative officials have constructive notice of the decision from the date a sign
22 containing the words "Zoning Decision" or "Subdivision Decision" in letters at least six
23 inches high and identifying the means to contact an official for information about the
24 decision is prominently posted on the property that is the subject of the decision,
25 provided the sign remains on the property for at least ten days. Posting of signs is not
26 the only form of constructive notice. Any such posting shall be the responsibility of the
27 landowner or applicant. Verification of the posting shall be provided to the official who
28 made the decision. Posting of such signs by the landowners or applicant is encouraged,
29 but not required.
- 30 (5) The official who made the decision - or in the case of the planning board, the chairman
31 of the planning board or his or her designee - shall transmit to the board all the
32 documents and exhibits constituting the record upon which the action appealed was
33 taken. The official must also provide a copy of the record to the appellant and to the
34 owner of the property that is the subject of the appeal if the appellant is not the owner.
- 35 (6) An appeal of a notice of violation or other enforcement order stays enforcement of the
36 action appealed from and accrual of any fines assessed during the pendency of the
37 appeal to the board of adjustment and any subsequent appeal in accordance with G.S.
38 160D-1402 or during the pendency of any civil proceeding authorized by law or appeals
39 therefrom, unless the official who made the decision certifies to the board after notice
40 of appeal has been filed that, because of the facts stated in an affidavit, a stay would
41 cause imminent peril to life or property or, because the violation is transitory in nature,
42 a stay would seriously interfere with enforcement of the development regulation. In that
43 case, enforcement proceedings are not stayed except by a restraining order, which may
44 be granted by a court. If enforcement proceedings are not stayed, the appellant may file
45 with the official a request for an expedited hearing of the appeal, and the board shall
46 meet to hear the appeal within 15 days after the request is filed. Notwithstanding any
47 other provision of this section, appeals of decisions granting a development approval or
48 otherwise affirming that a proposed use of property is consistent with the development

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1 regulation does not stay the further review of an application for development approvals
2 to use the property; in these situations, the appellant or town may request and the board
3 may grant a stay of a final decision of development approval applications, including
4 building permits affected by the issue being appealed. ~~An appeal of a notice of violation~~
5 ~~or other enforcement order stays enforcement of the action appealed from unless the~~
6 ~~official who made the decision certifies to the board of adjustment after notice of appeal~~
7 ~~has been filed that because of the facts stated in an affidavit, a stay would cause~~
8 ~~imminent peril to life or property or because the violation is transitory in nature, a stay~~
9 ~~would seriously interfere with enforcement of this chapter. In that case, enforcement~~
10 ~~proceedings shall not be stayed except by a restraining order, which may be granted by~~
11 ~~a court. If enforcement proceedings are not stayed, the appellant may file with the~~
12 ~~official a request for an expedited hearing of the appeal, and the Board of Adjustment~~
13 ~~must meet to hear the appeal within 15 days after such request is filed. Notwithstanding~~
14 ~~the foregoing, appeals of decisions granting a permit or otherwise affirming that a~~
15 ~~proposed use of property is consistent with this chapter shall not stay the further review~~
16 ~~of an application for permits or permissions to use such property. In these situations, the~~
17 ~~appellant may request and the board may grant a stay of a final decision of permit~~
18 ~~applications or building permits affected by the issue being appealed.~~

19 (7) Subject to subsection (5) of this section, the Board of Adjustment must hear and
20 decide the appeal within a reasonable time.

21 (8) The official who made the decision - or in the case of the planning board the chairman
22 of the planning board or his or her designee - or the person currently occupying that
23 position, if the decision maker is no longer employed by or an official of the town, shall
24 must be present at the evidentiary hearing as a witness.

25 (9) The appellant shall not be limited at the hearing to matters stated in the notice of
26 appeal. If any party or the town would be unduly prejudiced by the presentation of
27 matters not presented in the notice of appeal, the board shall continue the hearing.

28 (10) A majority of the board members shall be required to reverse any decision of an
29 administrative official charged with the enforcement of this chapter. The board may
30 reverse or affirm, in whole or in part, or may modify the decision appealed from, and
31 shall make any order, requirement, decision or determination that ought to have been
32 made. To this end, the board shall have all the powers of the official who made the
33 decision.

34 (b) *Variances.* When unnecessary hardships would result from carrying out the strict letter of a
35 zoning ordinance, the Board of Adjustment shall vary any of the provisions of the ordinance
36 upon a showing of all of the following:

37 (1) Unnecessary hardship would result from the strict application of the ordinance. It shall
38 not be necessary to demonstrate that, in the absence of the variance, no reasonable use
39 can be made of the property.

40 (2) The hardship results from conditions that are peculiar to the property, such as location,
41 size, or topography. Hardships resulting from personal circumstances, as well as
42 hardships resulting from conditions that are common to the neighborhood or the general
43 public, may not be the basis for granting a variance.

44 (3) The hardship did not result from actions taken by the applicant or the property owner.
45 The act of purchasing property with knowledge that circumstances exist that may justify
46 the granting of a variance shall not be regarded as a self-created hardship.

- 1 (4) The requested variance is consistent with the spirit, purpose, and intent of the
2 ordinance, such that public safety is secured, and substantial justice is achieved.

3 No change in permitted uses may be authorized by variance. Appropriate conditions may be
4 imposed on any variance, provided that the conditions are reasonably related to the variance. Any
5 other ordinance that regulates land use or development may provide for variances consistent with
6 the provisions of this subsection.
7

8 **PART 55.** That **Sec. 23-5. - Voting.** of the Zoning Ordinance of the Town of Manteo, North
9 Carolina, is hereby amended as follows:
10

11 ...
12 (b) Sec. 1-20 shall apply to conflicts of interest for members of the board. A member of the
13 board shall not participate in or vote on any quasi-judicial matter in a manner that would
14 violate affected persons' constitutional rights to an impartial decision maker. Impermissible
15 violations of due process include, but are not limited to, a member having a fixed opinion
16 prior to hearing the matter that is not susceptible to change, undisclosed ex parte
17 communications, a close familial, business, or other associational relationship with an
18 affected person, or a financial interest in the outcome of the matter. If an objection is raised
19 to a member's participation and that member does not recuse himself or herself, the
20 remaining members shall by majority vote rule on that objection.
21 ...

22 (d) Every quasi-judicial decision of the Board of Adjustment shall be subject to review by the
23 superior court by proceedings in the nature of certiorari pursuant to G.S. ~~160D-1402-160A-~~
24 ~~393.~~ The petition for the writ of certiorari must be filed with the Dare County Clerk of Court
25 by the later of 30 days after the decision is effective or a written copy of the board's decision
26 has been delivered by personal delivery, electronic mail, or by first-class mail to the
27 applicant, property owner, and any other person who has submitted a written request for a
28 copy, prior to the date the decision becomes effective. A written copy of the board's decision
29 is effective upon the filing of the written decision with the clerk to the board or in the office
30 of the zoning administrator. When first-class mail is used to deliver notice, three days shall
31 be added to the time to file the petition.
32

33 **PART 56.** That **Article XXIV.** of the Zoning Ordinance of the Town of Manteo, North
34 Carolina, is hereby renamed **HEARING PROCEDURES FOR SPECIAL USE**
35 **PERMITS, APPEALS AND VARIANCES**
36

37 **PART 57.** That **Sec. 24-1. - Hearing required on appeals and applications.** of the Zoning
38 Ordinance of the Town of Manteo, North Carolina, is hereby amended as follows:
39

40 ...
41 (a) Before making a decision on a special conditional use permit, an appeal or an application
42 for a variance, or a petition from the administrator to revoke a special conditional use permit,
43 the Board of Adjustment or the town commissioners shall hold a quasi-judicial hearing
44 during a public meeting on the appeal or application.

45 (b) A hearing before the Board of Adjustment shall be open to the public. The applicant, the
46 town, and any person who would have standing to appeal the decision under G.S. 160D-
47 1402(c) shall have the right to participate as a party at the evidentiary hearing. Other

1 witnesses may present competent, material, and substantial evidence that is not repetitive as
2 allowed by the board. and all persons shall be given an opportunity to present written
3 evidence, offer sworn testimony, and direct questions to the board regarding other evidence
4 or testimony.

5 ...
6
7 **PART 58.** That **Sec. 24-2. - Notice of hearing.** of the Zoning Ordinance of the Town of
8 Manteo, North Carolina, is hereby amended as follows:

9
10 The zoning administrator shall give notice of any hearing required by section 24-1 as
11 follows:

12 (1) Notice shall be given to the appellant or applicant and any other person who makes a
13 written request for such notice by mailing to such persons a written notice not more
14 than 25 and no fewer than ten calendar days before the hearing.

15 (2) With respect to hearings on matters other than special conditional use permits, notice
16 shall be given to neighboring property owners by mailing a written notice no later than
17 ten calendar days (15 calendar days in the case of the Board of Adjustment) before the
18 hearing to those persons who own property located within 100 feet of the lot that is the
19 subject of the application or appeal. In all cases, the applicant shall provide stamped,
20 addressed envelopes of neighboring property owners to the zoning administrator.
21 Notice shall also be given by prominently posting signs in the vicinity of the property
22 that is the subject of the proposed action. Such signs shall be posted no less than ten
23 calendar days prior to the hearing.

24 ...
25
26 **PART 59.** That **Sec. 24-3. - Evidence.** of the Zoning Ordinance of the Town of Manteo, North
27 Carolina, is hereby amended as follows:

28
29 ...
30 d) Objections regarding jurisdictional and evidentiary issues, including, but not limited to, the
31 timeliness of an appeal or the standing of a party, may be made to the board. The chairman
32 of the board or mayor shall rule on all questions regarding the admissibility of evidence
33 objections, and the rulings may be appealed to the full board.

34 (e) The administrator or staff to the board shall transmit to the board all applications, reports,
35 and written materials relevant to the matter being considered. The administrative materials
36 may be distributed to the members of the board prior to the hearing if at the same time they
37 are distributed to the board a copy is also provided to the appellant or applicant and to the
38 landowner if that person is not the appellant or applicant. The administrative materials shall
39 become a part of the hearing record. The administrative materials may be provided in written
40 or electronic form. Objections to inclusion or exclusion of administrative materials may be
41 made before or during the hearing. Rulings on unresolved objections shall be made by the
42 board at the hearing.

43
44 **PART 60.** That **Sec. 25-1. - Amendments in general.** of the Zoning Ordinance of the Town of
45 Manteo, North Carolina, is hereby amended as follows:

(a) Amendments to the text of this ordinance, any other development regulation authorized by G.S. Chap. 160D, or to the zoning map shall ~~may~~ be made in accordance with the provisions of this article.

(b) As provided in NCGS § 160D-108, land development regulations or amendments thereto shall not, without the written consent of the property owner, be applicable or enforceable with when a vested right has been established prior to the enactment or amendment of the land development regulation making the change so long as the vested right applies. As provided in G.S. 160A 385(b), ~~amendments, modifications, supplements, repeal or other changes in land use regulations and restrictions and development boundaries shall not be applicable or enforceable without consent of the owner with regard to building and uses for which either (i) a building permit has been issued pursuant to G.S. 160A 417 prior to the enactment of the ordinance making the change or changes as long as the permit remains valid and unexpired pursuant to G.S. 160A 418 and unrevoked pursuant to G.S. 160A 422 or (ii) a vested right has been established pursuant to G.S. 160A 385.1 and the provisions of section 25-8 of this ordinance and such vested right remains valid and unexpired.~~

PART 61. That **Sec. 25-2. - Initiation of amendments.** of the Zoning Ordinance of the Town of Manteo, North Carolina, is hereby amended as follows:

(a) Whenever a request to amend this ordinance, any other development regulation authorized by G.S. Chap. 160D, a comprehensive or land-use plan or the zoning map is initiated by the town commissioners, the Planning and Zoning Board, the Board of Adjustment, or the town administration, the zoning administrator in possible consultation with the town attorney shall draft an appropriate ordinance amendment. The Board of Commissioners shall set a date for a public hearing.

(b) Any other person may also petition the town commissioners to amend this ordinance, any other development regulation authorized by G.S. Chap. 160D, a comprehensive or land-use plan or the zoning map (see fee schedule). The petition shall be filed with the administrator and shall include, among the information deemed relevant by the administrator:

(1) The name, address, and phone number of the applicant;

(2) A legal description and a scaled map of the land affected by the amendment if a change in zoning district classification is proposed; and

(3) A description of the proposed map change or a summary of the specific objective of any proposed change in the text of this ordinance, comprehensive or land-use plan, or other development regulation authorized by G.S. Chap. 160D.

(c) Petitions must be received at least 30 days prior to the next regularly scheduled Planning and Zoning Board meeting.

(d) No amendment to zoning regulations or a zoning map that down-zones property shall be initiated nor is it enforceable without the written consent of all property owners whose property is the subject of the down-zoning amendment, unless the down-zoning amendment is initiated by the town. For purposes of this section, "down-zoning" means a zoning ordinance that affects an area of land in one of the following ways:

(1) By decreasing the development density of the land to be less dense than was allowed under its previous usage.

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(2) By reducing the permitted uses of the land that are specified in a zoning ordinance or land development regulation to fewer uses than were allowed under its previous usage.

PART 62. That **Sec. 25-3. - Planning and Zoning Board consideration of proposed amendments.** of the Zoning Ordinance of the Town of Manteo, North Carolina, is hereby amended as follows:

All proposed amendments to this ordinance, any other development regulation authorized by G.S. Chap. 160D, a comprehensive or land-use plan or the zoning map shall be referred to the Planning and Zoning Board for review and comment ~~consideration and recommendation~~. At any time on any matter the Planning and Zoning Board may call a public hearing on any matter. When conducting a review of proposed zoning text or map amendments, the Planning and Zoning Board shall advise and comment on whether the proposed action is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The Planning and Zoning Board shall provide a written recommendation to the town commissioners that addresses plan consistency and other matters as deemed appropriate by the Planning and Zoning Board, but a comment by the Planning and Zoning Board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the town commissioners. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b), the Planning and Zoning Board statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the recommendation made.

PART 63. That **Sec. 25-4. - Hearing required; notice.** of the Zoning Ordinance of the Town of Manteo, North Carolina, is hereby amended as follows:

- (a) No ordinance that amends any of the provisions of this ordinance, any other development regulation authorized by G.S. Chap. 160D, a comprehensive or land-use plan or the zoning map may be adopted until a public hearing has been held on such ordinance.
- (b) The administrator shall publish a notice of the public hearing on any ordinance that amends the provisions of this ordinance, any other development regulation authorized by G.S. Chap. 160D, a comprehensive or land-use plan or the zoning map once a week for two successive calendar weeks in a newspaper having general circulation in the area. The notice shall be published for the first time not less than 10+5 days or more than 25 days before the date fixed for the hearing. In computing this period the date of publication shall not be counted but the date of the hearing shall be counted.
- (c) With respect to zoning map amendments, the administrator shall mail the owners of affected parcels of land and the owners of all parcels of land abutting that parcel of land a notice of the hearing on a proposed zoning map amendment by first-class mail at the last addresses listed for such owners on the county tax abstracts. For the purpose of this section, properties are "abutting" even if separated by a street, railroad, or other transportation corridor. This notice must be deposited in the mail at least 10 but not more than 25 days prior to the date of the hearing. written notice of the public hearing by certified mail, return receipt requested, to the record owners for tax purposes of all properties whose zoning district classification is changed by the proposed amendment and a first class notification of the public hearing to the owners of all properties any portion of which is immediately adjacent to it or, within 100 feet of the property rezoned by the amendment. The town shall also prominently post a notice of the hearing on the site proposed for the amendment or on

1 an adjacent public street or highway right-of-way. The notice shall be posted within the same
 2 time period specified for mailed notices of the hearing. When multiple parcels are included
 3 within a proposed zoning map amendment, a posting on each individual parcel is not
 4 required but the local government shall post sufficient notices to provide reasonable notice to
 5 interested persons. For large-scale zoning map amendments, the town may follow the
 6 optional mailing notice procedures under G.S. 160D-602(b).

7 (d) The public notice to the newspaper and property owners required by this section shall:

8 (1) State the date, time, and place of the public hearing;

9 (2) Summarize the nature and character of the proposed change;

10 (3) State that the full text of the amendment can be obtained from the administrator; and

11 (4) State that substantial changes in the proposed amendment may be made following the
 12 public hearing.

13 (e) The person or persons mailing and posting notices ~~to adjoining property owners, as defined~~
 14 ~~in G.S. 160D-602-160A-384,~~ shall certify to the town commissioners that fact

15
 16 **PART 64.** That **Sec. 25-5. - Town commissioners' action on amendments.** of the Zoning
 17 Ordinance of the Town of Manteo, North Carolina, is hereby amended as follows:

18
 19 (a) After receiving a recommendation from the Planning and Zoning Board on a proposed
 20 amendment to this ordinance, any other development regulation authorized by G.S. Chap.
 21 160D, a comprehensive or land-use plan or the zoning map, the town commissioners may
 22 proceed to vote on the proposed ordinance amendment, refer it to a committee for further
 23 study, or take any other action consistent with its usual rules of procedure.

24 (b) If no written report is received from the Planning and Zoning Board within 30 days of
 25 referral of the amendment to that board, the governing board may act on the amendment
 26 without the planning board report. The town commissioners shall await the
 27 recommendations of the Planning and Zoning Board before taking action on a proposed
 28 amendment, but the The town commissioners are not bound by any recommendations of the
 29 Planning and Zoning Board that are before it at the time it takes action on a proposed
 30 amendment.

31 (c) The town commissioners are required to take final action on an amendment within a
 32 reasonable time ~~65 days proceeding the first meeting of the Board of Commissioners to~~
 33 ~~consider the application, since inordinate delays can result in the applicant incurring~~
 34 ~~unnecessary costs.~~ This provision need not apply to an amendment initiated by the town
 35 itself.

36 (d) Voting on amendments to this ordinance shall proceed in accordance with G.S. 160A-75
 37 and G.S. 160D-601 ~~the same manner as other ordinances, subject to section 25-7.~~

38 (e) When adopting or rejecting any zoning text or map amendment, the town commissioners
 39 shall approve a brief statement describing whether its action is consistent or inconsistent
 40 with an adopted comprehensive plan. The requirement for a plan consistency statement may
 41 also be met by a clear indication in the minutes of the town commissioners that at the time of
 42 action on the amendment the town commissioners were aware of and considered the
 43 Planning and Zoning Board's recommendations and any relevant portions of an adopted
 44 comprehensive plan. If a zoning map amendment is adopted and the action was deemed

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1 inconsistent with the adopted plan, the zoning amendment shall have the effect of also
2 amending any future land-use map in the approved plan, and no additional request or
3 application for a plan amendment shall be required. If a plan is deemed amended by virtue of
4 adoption of a zoning amendment that is inconsistent with the plan, that amendment shall be
5 noted in the plan. However, if the plan is a CAMA land-use plan that requires review and
6 approval subject to G.S. 113A-110, the plan amendment shall not be effective until that
7 review and approval is completed. A plan amendment and a zoning amendment may be
8 considered concurrently. The plan consistency statement is not subject to judicial review. If a
9 zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b), the
10 town commissioners' statement describing plan consistency may address the overall
11 rezoning and describe how the analysis and policies in the relevant adopted plans were
12 considered in the action taken.

13 (f) When adopting or rejecting any petition for a zoning map amendment, a statement
14 analyzing the reasonableness of the proposed rezoning shall be approved by the town
15 commissioners. This statement of reasonableness may consider, among other factors:

16 (i) the size, physical conditions, and other attributes of the area proposed to be rezoned,

17 (ii) the benefits and detriments to the landowners, the neighbors, and the surrounding
18 community,

19 (iii) the relationship between the current actual and permissible development on the tract
20 and adjoining areas and the development that would be permissible under the proposed
21 amendment;

22 (iv) why the action taken is in the public interest; and

23 (v) any changed conditions warranting the amendment.

24 If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b),
25 the governing board statement on reasonableness may address the overall rezoning.

26
27 **PART 65.** That **Sec. 25-6. - Ultimate issue before town commissioners on amendments.**
28 of the Zoning Ordinance of the Town of Manteo, North Carolina, is hereby stricken and
29 repealed in its entirety.

30
31 **PART 66.** That **Sec. 25-7. - Protests to zoning district changes.** of the Zoning Ordinance
32 of the Town of Manteo, North Carolina, is hereby stricken and repealed in its entirety.

33
34 **PART 67.** That **Sec. 25-8.** of the Zoning Ordinance of the Town of Manteo, North Carolina,
35 is hereby amended as follows:

36
37 **Sec. 25-68. - Vested rights and permit choice.**

38
39 Vested rights may be established, claimed, enforced, amended and may expire via the procedures
40 established by G.S. 160D-108, 160D-108.1 and G.S. 160D-1111. If a land development
41 regulation is amended between the time a development permit application was submitted and a
42 development permit decision is made or if a land development regulation is amended after a
43 development permit decision has been challenged and found to be wrongfully denied or illegal,
44 G.S. 143-755 applies and the applicant may exercise the permitting choices provided for therein.

- 1 (a) ~~Requests to establish vested rights according to G.S. § 160A-385.1 shall provide the~~
2 ~~information required for a special conditional use permit request and shall follow the~~
3 ~~amendment procedure outlined in this article.~~
- 4 (b) ~~Vested rights may be terminated in any of the following ways:~~
- 5 (1) ~~The landowner agrees, in writing to relinquish the vested right;~~
- 6 (2) ~~After notice and hearing the town commissioners determine that there are natural or~~
7 ~~manmade hazards that would pose a serious threat to the public health, safety, and~~
8 ~~welfare if the project were to proceed as contemplated in the site specific development~~
9 ~~plan;~~
- 10 (3) ~~Upon payment to the affected landowner of compensation for all costs, expenses, and~~
11 ~~other losses incurred by the landowner, including, but not limited to, all fees paid in~~
12 ~~consideration of financing, and all architectural, planning, marketing, legal, and other~~
13 ~~consultant fees incurred after approval by the town, together with interest thereon at the~~
14 ~~legal rate until paid. Compensation shall not include any diminution in the value of the~~
15 ~~property which is caused by such action;~~
- 16 (4) ~~Upon findings by the town commissioners, after notice and a hearing, that the~~
17 ~~landowner or his representative intentionally supplied inaccurate information or made~~
18 ~~material misrepresentations which made a difference in the approval of the site specific~~
19 ~~development plan;~~
- 20 (5) ~~Upon the enactment or promulgation of a state or federal law or regulation that~~
21 ~~precludes development as contemplated in the site specific development plan, in which~~
22 ~~case the approval authority may modify the affected provisions, upon a finding that the~~
23 ~~change in state or federal law has a fundamental effect on the plan, by ordinance after~~
24 ~~notice and hearing; or~~
- 25 (6) ~~At the end of the applicable vesting period with respect to buildings and uses for which no~~
26 ~~valid building permit applications have been filed.~~

27
28 **PART 68.** That **Sec. 26-41. - Sedimentation and erosion control.** of the Zoning Ordinance
29 of the Town of Manteo, North Carolina, is hereby amended as follows:
30

- 31 (a) No zoning or special conditional use permit may be issued and final plat approval for
32 subdivisions may not be given with respect to any development that would cause land
33 disturbing activity requiring prior approval of an erosion and sedimentation control plan by
34 the North Carolina Sedimentation Control Commission under G.S. 113A-57(4) unless the
35 commission has certified to the town, either that:
36 ...
37

38 **ARTICLE IV. Amendment of Town Code of Ordinances**
39

40 NOW, THEREFORE, BE IT ORDAINED by the Town Board of Commissioners of the
41 Town of Manteo, North Carolina, that the Town's Code of Ordinances be amended as follows:
42

43 **PART 1.** That **Sec. 2-204. Powers and duties.** of the Town Code of Ordinances, Town of
44 Manteo, North Carolina, is hereby amended as follows:

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1
2 It shall be the duty of the town planning and zoning board to prepare plans and to coordinate
3 the plans of the town and those of others so as to bring about a coordinated and harmonious
4 development of the area. The planning and zoning board is hereby designated as the planning
5 agency for the preparation of a zoning plan for the town under the authority of G.S. 160D-
6 301-160A-387. In addition, the planning board is empowered to:

7 ...
8
9 **PART 2.** That **Sec. 10-3. Building permit required; fees.** of the Town Code of Ordinances,
10 Town of Manteo, North Carolina, is hereby amended as follows:
11

12 No person shall, within the town, commence with any form of development where permits
13 are required by the State Building Code and any other State or local laws applicable to the
14 development without first securing all such required permits, including, but not limited to erect,
15 construct or demolish, or commence the erection, construction or demolition, or alter or
16 commence the alteration of any type of building without first obtaining a building permits in
17 accordance with the provisions and procedures set forth in N.C.G.S. Chap. 160D and the town
18 zoning ordinance. The schedule of building permit fees is on file and available in the town
19 offices.

20 (Code 1972, § 4-6)

21 State law reference(s)—Building permits, G.S. Chap. 160D, Art. 11 160A-417—160A-423.
22

23 **PART 3.** That **Sec. 10-4. Installation of utility lines.** of the Town Code of Ordinances, Town
24 of Manteo, North Carolina, is hereby amended as follows:
25

26 Installation of utility lines shall be performed in accordance with Sec. 20-2 of the Town of
27 Manteo Zoning Ordinance.

28 (a) Electric power, telephone, cable television and natural gas lines are to be installed by
29 agreement between the property owner and the appropriate utility company and such
30 installation must conform to the standards provided by the respective utility company. The
31 execution of such agreement by the property owner and the utility company, even though
32 such lines are not physically installed at the time of submission of plans to the planning and
33 zoning board for review, may be deemed necessary by the planning and zoning board for the
34 purpose of final approval.

35 (b) The installation of electric power, cable television and telephone lines beneath the surface of
36 the ground is mandatory unless those lines can follow existing pathways as in updating,
37 replacing or adding service. At such time as main service utilities are put underground, then
38 all utilities must go underground.

39 (c) All new service drops and service connections must go underground.

40 (d) Prior to the installation of any electric power, cable television or telephone lines, either
41 overhead or below ground, whether new service, service upgrade, service repair or service
42 replacement, no work may begin until a permit has been applied for and obtained from the town.
43 In addition, any utility work which may cause a blockage or partial blockage of any right-of-way
44 must be reported to the town police department at least 24 hours prior to commencement of any
45 work.
46

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1 **ARTICLE V. Statement of Consistency with Comprehensive Plan and Reasonableness.**

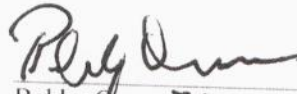
2
3 The Town's adoption of this ordinance amendment is consistent with the Town's adopted
4 comprehensive zoning ordinance, land use plan and any other officially adopted plan that is
5 applicable. For all of the above-stated reasons and any additional reasons supporting the Town's
6 adoption of this ordinance amendment, the Town considers the adoption of this ordinance
7 amendment to be reasonable and in the public interest.
8

9 **ARTICLE VI. Severability.**

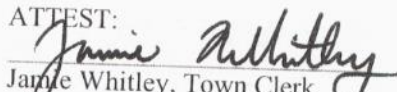
10
11 All Town ordinances or parts of ordinances in conflict with this ordinance amendment are hereby
12 repealed. Should a court of competent jurisdiction declare this ordinance amendment or any part
13 thereof to be invalid, such decision shall not affect the remaining provisions of this ordinance
14 amendment nor the Zoning Ordinance or Town Code of the Town of Manteo, North Carolina
15 which shall remain in full force and effect.
16

17 **ARTICLE VII. Effective Date.**

18
19 This ordinance amendment shall be in full force and effect from and after the 16 day of
20 June, 2021.
21

22
23 
Bobby Owens, Mayor

24 ATTEST:

25 
Jamie Whitley, Town Clerk

26 Date adopted: June 16, 2021

27 Motion to adopt by Commissioner

28 Motion seconded by Commissioner

29 Vote: 5 AYES 0 NAYS
30

Borland
Burke

